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THE
TRIAL
OF

JOSEPH WAKEFIELD and HENRY SMITH,

(THE FORMER OF WHOM ONLY WAS CONVICTED)

FOR THE MURDER OF

Mr. THOMAS TWAITES,

Gamekeeper to the Hon. CHARLES TOWNSHEND, at
HONINGHAM, near Norwich, in the Month of November, 1785.

AT THE LENT ASSIZES 1788,

Holden at THETFORD, before Sir W. H. ASHHURST, Knt.

ONE OF HIS MAJESTY'S JUSTICES OF THE COURT OF KING'S-BENCH.

TAKEN IN SHORT-HAND.

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Rev. May 15, 1900.

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T R I A L
O F

Joseph Wakefield and Henry Smith.

JOSEPH WAKEFIELD and HENRY SMITH were indicted for the murder of Thomas Twaites, gamekeeper to the Hon. Charles Townshend, at Honingham, near Norwich, by cruelly beating him on the head and in different parts of the body.

<i>Council for the Prosecution.</i>	<i>Council for Smith.</i>
Mr. ADAIR,	Mr. GRAHAM.
Mr. JODDREL.	

MR. JODDREL opened the indictment, and was followed by Mr. Adair, who explained to the Jury the nature of the prosecution, which was, he said, with an intent of bringing to justice, the murderers of a poor man, who had been killed so long since as the month of November 1785; this man, he said, was gamekeeper to the Hon. Charles Townshend, and was going his rounds, executing his lawful occupation, that of protecting his master's property from a party of poachers, and who, unfortunately, in the night, having mis-

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taken

taken their party for his own friends, fell, as he was instructed to say, by the hands of the prisoners, to appease the resentment of this lawless banditti, who so long had infested this part of the country ; he then shortly stated the evidence which he should bring to prove the charge home to the prisoners at the bar, on which they were to exercise their judgments. He concluded, by saying, that the end of all law, was that of protecting inviolably men's lives and properties from the violence and injustice of others. He then called

JOHN HUTCHINSON.---*Examined by Mr. Joddrel.*

You are gamekeeper to the Hon. Charles Townshend, of Honingham, are you not ?—Yes, Sir.

Do you remember the night of the 29th of November, 1785 ?—Yes, very well.

Tell the Court what happened that night ?—Two of our watch went out, and about 12 o'clock they came back to let me know that the poachers were come ; I then went with them in pursuit of the poachers.

Where did they say the poachers were ?—They were in the wood.

Did you go to the wood ?—Yes.

Did you hear any firing before you got to the wood ?—Yes, I heard firing several times.

Now when you came to the wood, what did you observe, did you see any person ?—Yes, several.

What sort of a night was it ?—It was a very star-light night.

Was it light enough for you to distinguish any person in particular ?—No, I could not.

Now when you saw them, what did they do, did they run away ?—No, they all drew up in a line, and faced us.

Was any thing said then ?—Yes, one of them called out Hutchinson ! where are you, boy, where are you ! we are come for you ! we are come for you now ! As I found them too strong for us, I thought it better to retreat.

Where

Where did you retreat to?—To the village of Honingham.
As you went to the village, did you meet any body?—Yes,
I met the old man Thomas Twaites.

Whereabouts was it that you met him?—It was about a
quarter of a mile from the wood.

Did you speak to him?—Yes.

In what condition was he in when you met him?—His
head and face were all over bloody, I took my handkerchief
and tied up his head, and had him home.

Did you see where he was wounded?—Not particularly, I
thought it must be in his head, it was all over blood.

What time was it that you got Twaites to Honingham?—
It might be, I suppose, about a quarter past 12 o'clock.

What did you do then? did you send for any surgeon?—
Yes, I sent for Mr. Thorn.

What day was this?—It was on Wednesday.

How often did you see him after this?—Every day till he
died.

Did he ever tell you at any time what he thought of his
wounds?—He told me he thought he should die.

Cross-examined by Mr. Graham.

When was it he told you he thought he should die?—It
was on the Monday; he was going to tell me all about it, but
his wife would not let him speak, but said, “think of your
own sins.”

When was it he first told you he thought he should die?
[By Mr. Joddrel.]—When he first went home.

Had you any conversation with him how he came by his
wounds?—Yes, Sir, I had.

How did he say he came by them?—He said he mistook
the poachers for our party, and went up to them and said,
“Well, Sirs, have you taken them,” one of them then made
reply with an oath, we have taken you; with that, he said,
several of them beat him on his legs and head with large sticks,
while several of them stood by, and they thrashed him like
Mr.

Mr. THORN.—Examined by Mr. Adair.

You are a surgeon, Sir, and live at Honingham, I believe?—I do, Sir.

Was you in the month of November 1785, called on to attend the poor man Twaites, the deceased?—I was, Sir, I was sent for, it might be between two and three o'clock on the Wednesday morning.

Be so good as to describe the situation you found the deceased in?—He appeared to have had several violent blows on his legs, and on the crown of his head, where I discovered a wound; another above the eye-brow, accompanied with a fracture also; the fracture on the head united with the fracture above the eye-brow.

Did he live long under your care?—Six days.

How often did you see him?—I attended him every day.

Do you think these fractures, which you have described, were the cause of his death? I do believe they were.

JAMES MOORE, (*a prisoner*) was brought from the other prisoners ---Sworn and examined by Mr. Joddrel.

Do you know Joseph Wakefield?—No farther than being in prison with him.

What did you ever hear Wakefield say about this business?—I heard Wakefield say, he was at the Hon. Charles Townshend's that night.

The Judge. What, was you talking of this business when he said, "that night"?—No.

Did you hear any thing else?—He said he was at the Hon. Charles Townshend's, but should not have gone, had it not been for Bales and his brother.

Cross-examined by Mr. Graham.

Had you ever heard Bales's name before?—No.

When was it you heard this conversation?—In February last. How

How long have you been out of prison?—Now.

How long?—Only now. [This man was discharged by proclamation, no bill being found against him.]

HENRY BALES, (*admitted an Evidence*).—Examined by
Mr. Adair.

Was you in the wood of the Hon. C. Townshend on the 29th of November, 1785?—Yes, I was.

You did not go alone; how many went with you?—There were twelve of us.

Were the two prisoners of this party?—They were.

What did you all meet together at the wood?—No, we met at Christmas's; his house is the Bell, at Alderford.

Did you go directly from Christmas's to the wood?—Yes, Sir.

What did you go to the wood to do?—For the purpose of shooting all the game we could.

Now when you came to the wood, did you shoot any game?—Yes, we did.

Now while you were in the wood, did you see any body; did you see any of the gamekeepers?—After we had been shooting some time, we saw a couple of men going towards the hill; they saw us; we continued shooting; after some time we saw another man.

Had you any conversation together when you saw this party?—No, only what we had had in the house, that we would stand by each other; we all then drew up in a line, and faced them.

Was any thing said when you drew up in a line?—Yes, T. Christmas said, lads we are for them, dead or alive, or words to that effect.

When was it he said this?—Before we drew up in a line, when we first saw them, we went up to them, they went away, we followed them up, still they retreated, till we saw another man—I heard afterwards it was Thomas Twaites, he soon afterwards came up to us. Did

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Did Twaites say any thing to you when he came up?—Yes, he took our party for their's; he said, "have you taken them?" Thomas Christmas then swore a great oath, and said, "No, but I have taken you."

What followed then?—T. Christmas threw a large stone at this man, and knocked him down, then Harry Smith went to him with a stick, and struck him on the legs, and Joseph Wakefield went to him with a fork-shaft, and struck him right over the head several times.

Describe this stick?—It was a fork-shaft.

Describe it particularly—how big was it?—It was as big as my wrist, it was the shaft of a fork, the tines were broke off.

Did any of you say any thing to this?—I said, and Harry Smith said, "Lord have mercy upon me, you have killed this man."

After this happened, did any thing else pass?—Yes, we went to shooting again.

What did you do with the birds that you had killed?—We delivered them to Smith and Christmas.

How many did you deliver?—Thirteen brace and a half; Smith and Christmas took our birds, they allowed us 4s. 6d. a brace.

Cross-examined by Mr. Graham.

What business do you follow?—I am a sawyer.

Did you ever hear of any reward?—I don't know what reward.

Why, a reward advertised in the newspapers?—I can't read myself.

Why did you not hear there was a reward of 100l. if any body could tell who killed Twaites?—No.

Where did you come from the night you all met at Christmas's?—From seeing my mother.

Where

Where was this old man going when you saw him knock'd down?—He faced Wakefield, and when Wakefield struck him he tumbled on the ground.

Mr. Adair informed the Court he had no other Evidence to call on behalf of the Prosecution.

THOMAS HOOBY was then called on behalf of the Prisoner, and was examined by Mr. Graham.

Do you know the man last examined?—Yes, very well.

Is he a man of good repute?—No, Sir, he is a man of a very infamous character.

From what you know of him, do you think he is such a man as ought to be believed on his oath?—No, Sir, he is not, I believe he would take away your life, or any body's else.

What business do you follow, Hooby, and where do you live?—I am a barber and peruke-maker, and a Constable of Norwich.

BALES (*the last witness who was examined*) hallooed out from the crowd “ My Lord he never saw me till yesterday, and then he did not know me; he asked a person for me, I was then upon the stairs leading to the Grand Jury Room; he was there too, and he did not know me; there is a gentleman, (pointing to the Bailiff who attends the Grand Jury) was by at the time, and knows what I say to be true.

From the Judge. Hooby, what can you say to this?—My Lord I was going to explain; I am a Constable, and I had a warrant sometime ago to apprehend Bales; I could not find him; I heard he was here my Lord; I asked to be certain which was he, that I might not be mistaken.

ABRAHAM WATSON, *the Bailiff who attends the Grand Jury, and who had been pointed out by Bales to authenticate his assertions of Hooby, examined by Mr. Graham.*

Pray Mr. Watson tell the court what you know of this

C business

business, did you see Bales or Hooby yesterday?—I did Sir, I saw them both; I was attending the Grand Jury.

Did you hear Hooby ask for Bales?—I heard Hooby ask for Bales; some person answered, and said, Bales stands by you, and you don't know him.

SAMUEL SMITH was then called by Mr. Graham on behalf of the prisoner Smith.

The prisoner at the bar is your brother?—Yes.

Where does he live?—At —————

How far is that from this wood?—I cannot tell exactly, but I suppose ten miles.

What business is he?—My brother is a thatcher.

Is he an industrious man?—He has always had a good character, I never knew him to carry a gun in my life.

T H O M A S F E L L.

Do you know Smith the prisoner at the bar?—Yes, these twenty years. •

Pray, Sir, what is your business?—I am a farmer.

Did you ever employ the prisoner?—Yes, many a time, and always found him a very sober industrious man.

W I L L I A M D E W I N G.

Do you know Smith, the prisoner at the bar?—Yes, I was apprenticed to him.

Are you now apprenticed to him?—Yes, Sir, till Lady Day.

Has your master, since you have been with him, often made use of a gun?—Never till lately; he has used a gun to shoot some crows from a little place he has lately hired.

Prisoner said, " My Lord I was at home and in bed that night, and my man knows it."

WILLIAM

WILLIAM DEWING examined again by Mr. Graham.

Do you remember the night of the 29th of November, 1785?

—Yes, Sir, very well.

Where did your master sleep that night?—My master went to bed as usual, between nine and ten o'clock, and he called me up in the morning about six o'clock.

From the Judge. How can you remember this night in particular?—I remember my master lent his brother-in-law some money.

Did your master never lend his brother money but this once?—Not that I know of, I remember the day very well, we had been riving of broaches.

What did you never rive broaches before that day? Yes, my Lord, it was a rainy day, and we always rive broaches on a rainy day.

How then came you to remember this day in particular, if you always rived broaches on a rainy day?—I remember my master lending his brother money to pay for the keep of a cow.

The learned Judge then summed up the evidence, observing on every part which made for, as well as against, the prisoners at the bar. His Lordship dwelt for some time on that part of the evidence set up by Smith, to prove an alibi, and then leaving it to the Jury, as their province to judge if the evidence which had been brought was sufficient in their minds to criminate the prisoners.—The Jury conferred together about ten minutes, when they gave in their verdict, whereby Smith was *acquitted*, and Wakefield found *Guilty*.

His Lordship then, in a very pathetic manner, addressed the prisoner at the bar, pointing out to him the unpardonable dilemma he had brought himself into, by following an idle, dissolute, and lawless course of life, instead of pursuing his lawful occupation; it had carried him to commit the greatest of offences to civil society, that of taking away the life of one of its members: this offence was of so high a nature against that Being, who is the author of our existence, and so destructive

destructive to the community at large, that the laws of God, and the laws of man, both cried aloud for justice, and nothing but the life of the perpetrator of such crimes, could make attonement to the state for the offence he now stood convicted of.—That if the crime of murder could admit of aggravating circumstances, his was such a case, for he had taken away the life of an innocent man in the due execution of his office, when he himself, his Lordship said, was committing lawless depredations. His Lordship conjured him to make the utmost use of the very short time he had to live, for he must die the day after to-morrow; he desired him to address the Almighty in fervent prayer, and beg of him forgiveness, for mercy here he must not now expect,—he must suffer the punishment which the law had inflicted on offenders like him; and it only now remained for him, he said, to pronounce that sentence, which was, “ That you do go from hence to the place from whence you came, and from thence, on Thursday next, to the place of execution, where you are to be hanged by your neck till you are dead, and your body to be given to the surgeons to be dissected and anatomized, and the Lord have mercy on your soul.”

Whilst the learned Judge was passing sentence, every person present (except the prisoner) seemed to feel the force of his Lordship's language, and were much affected therewith.

The prisoner, who during his whole trial discovered not the least emotion for his fate, still retained, while the awful sentence was passing on him, the same unconcerned countenance. After his sentence, he was taken from the bar, and continued with the other prisoners, during young Sell's Trial*, and when his Lordship passed sentence on Sell, Wakefield, who before had been an unconcerned spectator, now felt remorse of conscience; he cried most bitterly, and was very much agitated indeed.—His person was rather stout, of a middle stature, and appeared to be between 30 and 40 years of age. He was by trade a smith.

At the place of execution he behaved himself with a decency becoming his awful situation, acknowledged the justness of his sentence, and was launched into eternity amidst a great concourse of people assembled on the melancholy occasion.

* For the Murder of his Mistress; just published, price 6d. and sold by all the Booksellers,